

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
CONDITIONAL USE PERMIT REPORT (#FCU-12-07)
JOSEPH KLEMPER AND RON KLEMPER
SEPTEMBER 18, 2012

This is a report to the Flathead County Board of Adjustment regarding a request by Joseph & Ron Klempel for a Conditional Use Permit for the expansion of an existing gravel pit operation previously permitted by conditional use permits (FCU-03-28 and FCU-05-15) for 'Extractive Industry' within the Bigfork, SAG-5 (Suburban Agricultural) Zoning District.

The Flathead County Board of Adjustment will hold a public hearing on the proposed conditional use on October 2, 2012 beginning at 6:00 P.M. in the 2nd floor conference room of the Earl Bennett Building, 1035 First Avenue West, Kalispell. Documents pertaining to this file are available for public inspection in the Flathead County Planning and Zoning Office, also located on the second floor of the Earl Bennett Building.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposed land use is within the advisory jurisdiction of the Bigfork Land Use Advisory Council (BLUAC). The proposal would have been reviewed by BLUAC however, on August 30, 2012 the Planning & Zoning Office was informed there would not be a quorum present for the regularly scheduled BLUAC meeting on September 27, 2012 and therefore the meeting has been cancelled.

B. Board of Adjustment

This space will contain an update regarding the April 3, 2012 Flathead County Board of Adjustment review of the proposal.

II. GENERAL INFORMATION

A. Application Personnel

i. Applicant & Landowner

Joseph Klempel & Ron Klempel (of KSG Holdings LLC)
1484 Ashley Lake Road
Kalispell, MT 59901

ii. Representative

Joseph Klempel
1484 Ashley Lake Road
Kalispell, MT 59901
klemlog@aboutmontana.net

B. Property Location and Size

The proposed expanded use would occur upon multiple tracts of land totaling approximately 160 acres in size. Located approximately three miles north of the town of Bigfork and situated on the north side of Coverdell Road, the proposal location is approximately 0.5 mile east of the intersection of Montana Highway 35 and Coverdell Road. Located at 455 Coverdell Road, the subject property can be legally

mixed agricultural zoning present in the general area (see Figure 2 below). Directly adjacent properties located to the north, south, east, and west are zoned ‘SAG-5 Suburban Agriculture’, the same classification as the subject property. An adjacent property located west of the subject property is zoned ‘AG-20 Agriculture’, and an adjacent property located to the south of the subject property is zoned ‘SAG-10 Suburban Agriculture’ (see Figure 3 below).

Figure 2: Adjacent land uses (subject property highlighted blue).

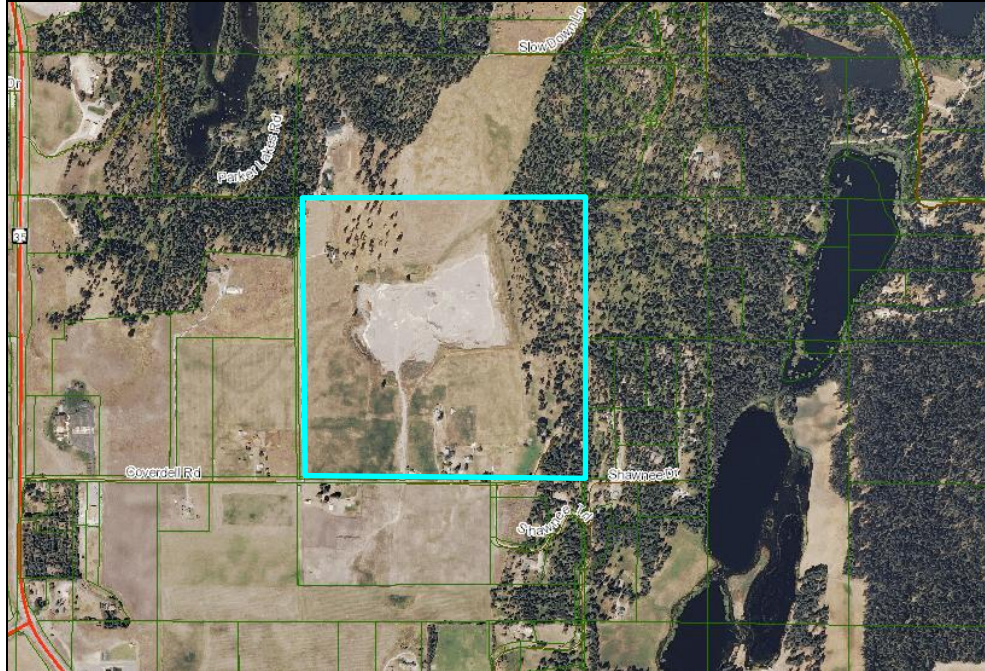
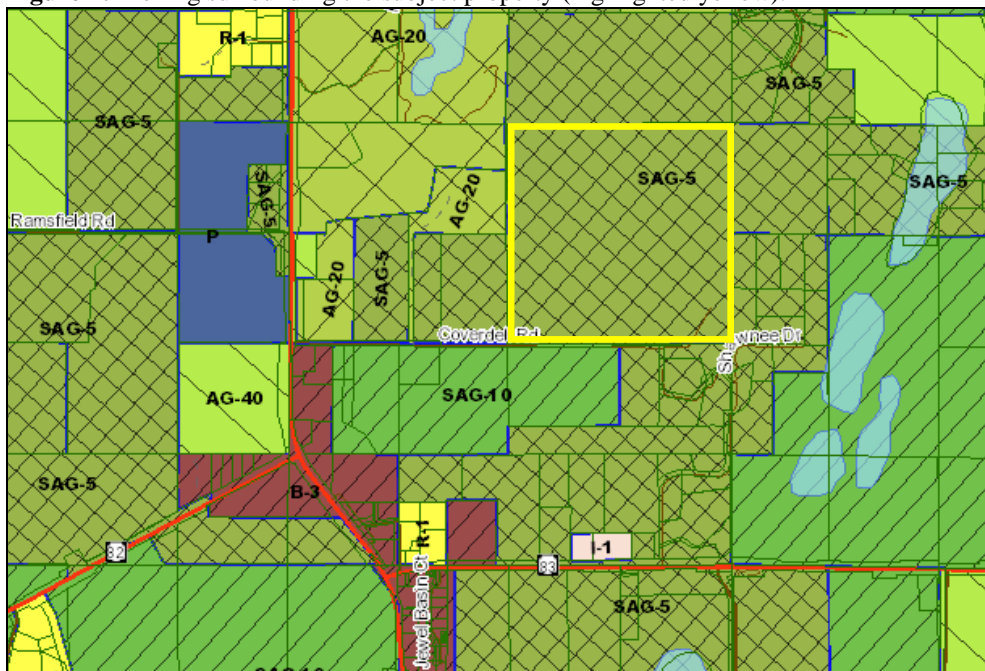


Figure 2: Zoning surrounding the subject property (highlighted yellow).



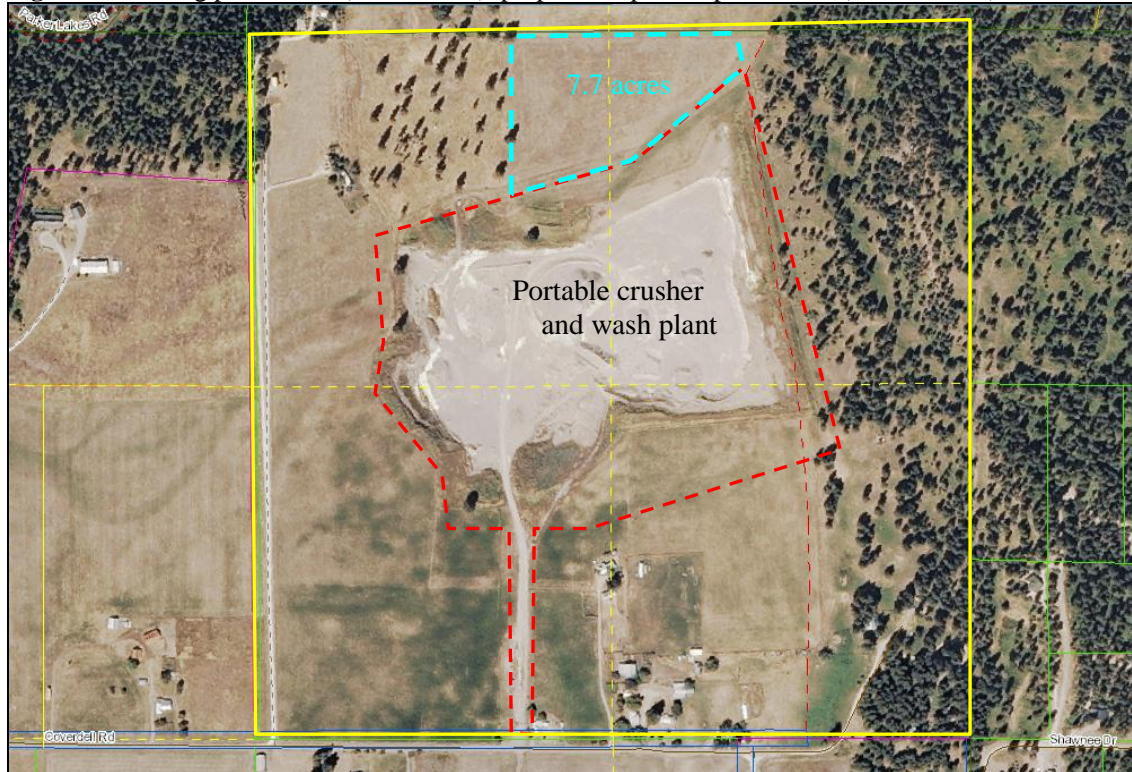
E. Summary of Request

The applicants propose to expand the permit area and include certain gravel processing activities not allowed under their current DEQ permit, and such an expansion requires compliance with local zoning regulations. Pursuant to Section 2.06.010 FCZR, such an expansion requires issuance of a new Conditional Use Permit.

The request is for a Conditional Use Permit to expand the current 'Extractive Industry' use. The request specifically proposes to:

- Expand the 44 acre operational area of the existing gravel pit permit by 7.7 acres located north of the active pit and permit area (see Figure 4);
- Modify the hours of operation to include Saturday. Current permitted hours of operation are 7:00 AM to 7:00 PM, Monday through Friday;
- Include a portable wash plant, screening facilities, and a 'grizzly' sorter to the current permitted crushing and asphalt batching operations.

Figure 4: Existing permit area (outlined red), proposed expanded permit area (outlined blue)



F. Compliance With Public Notice Requirements

Notification was mailed to property owners within 150 feet of the subject property on September 7, 2012, pursuant to Section 2.06.040(3) of the Flathead County Zoning Regulations. Legal notice of the public hearing on this application was published in the September 16, 2012 edition of the Daily Interlake.

G. Agency Referrals

Referrals were sent to the following agencies on August 27, 2012:

- Flathead City-County Health Department
- Flathead County Road and Bridge Department
- Flathead County Sheriff
- Jim Chilton, Flathead County Solid Waste District
- Bigfork Fire District
- Montana Department of Natural Resources and Conservation (DNRC)
- Bonneville Power Administration (BPA)

III. COMMENTS RECEIVED

A. Public Comments

No written public comments have been received to date regarding the conditional use permit request. Any individual wishing to provide public comment on the proposal may do so during the October 2, 2012 Flathead County Board of Adjustment public hearing on the proposal. Any written comments received following the completion of this report will be provided to the Board and summarized during the public hearing.

B. Agency Comments

The following is a summarized list of agency comment received as of the date of the completion of this staff report:

- Glen Gray, Flathead County Sanitarian, Environmental Health Department
 - This office has no comment regarding this proposal as we have no regulatory authority.
- Dave Prunty, Flathead County Road & Bridge Department
 - At this point the County Road Department does not have any comments on the request.
- James Chilton, Flathead County Solid Waste District
 - The District views no negative impact with solid waste issues at this time. The District requests all solid waste generated at the proposed location be hauled by a private contractor. Evergreen Disposal is the licensed (PSC) Public Service Commission Licensed hauler in this area.
- Wayne Loeffler, Chief, Bigfork Fire Department
 - The Department approves the request for the expansion of an existing pit operation previously permitted by a conditional use permit FCU-05-15.
- James Freyholtz, Kalispell Traffic engineer, Montana Department of Transportation
 - The proposal is accessed via Coverdell Road which is a county road. I have no comments regarding this proposal.

- Marc Pitman, Regional Manager, Kalispell DNRC Water Resource Division
 - “The only water right that I can find in DNRC records for the 180’ well that is being proposed to be used at 200 gpm, is a groundwater certificate, 76LJ30011032. This groundwater certificate water right is for the purpose of stock use at a rate of 35 gpm and a total annual volume of no more than 10 acre feet.

The proposed operation as stated using water at 200 gpm will require a water right permit application.

Operating the existing gravel pit or the proposed expanded pit with a portable wash plant or any other equipment that uses water from the existing well without a water right is a violation of Montana’s Water use Act. A potential appropriator may not begin to put water to beneficial use until the appropriator has completed the new appropriation permit process. A new permit must be applied for and *received* prior to use.

I recommend that Flathead County require the Applicants provide a copy of the water right abstract that authorizes them to divert water at 200 gpm from the 180’ well. Until such time the gravel pit cannot be allowed to operate with the proposed portable wash plant or any other equipment that requires the use of water over 35 gpm from the well.

An alternative to permitting would be to obtain a groundwater certificate for a combined appropriation of no more than a 35 gpm flow rate and a combined total annual volume of no more than 10 acre-feet from the 180’ well. A groundwater certificate water right is applied for after the facility is set up and water is being used.”

- Peggy Wyant, Realty Technician, BPA
 - The proposal will not impact any BPA transmission line corridors and BPA has no objections to the request at this time.

IV. CRITERIA REQUIRED FOR CONSIDERATION

The following review is conducted to evaluate potential impacts associated with the proposed 7.7 acre expansion of the existing gravel mining operation established on the subject property, and inclusion of portable wash plant, screening facilities, and a ‘grizzly’ sorter to the existing permitted gravel processing activities.

This review will not serve to re-evaluate the existing permitted operation, but it will address elements of the proposal which pertain to the operation of the existing use within the current permit area and within the proposed expanded permit area. Per Sections 2.06.080, 2.06.100, and 4.10 of the Flathead County Zoning Regulations (FCZR), what follows are criteria required for consideration of a Conditional Use Permit for ‘Extractive Industry’ and suggested findings of fact based on review of each criterion.

A. Site Suitability

i. Adequate usable space

Section 4.10 FCZR refers to the operation of an ‘Extractive Industry’ as occurring in two phases - ‘Exploitation’ and ‘Re-use’ phases. Exploitation phase would include the clearing of overburden and topsoil, gravel extraction activities, stockpiling of raw material, crushing, sorting, and washing of material, stockpiling of processed material, asphalt and/or cement batching and export/distribution of product from the site.

As indicated in the submitted application, the 7.7 acre expanded gravel extraction site would result in a total of 51.7 acres operating as an ‘Extractive Industry’ on the subject property (Assessor’s Tract 1), which totals approximately 160 acres in size. Exploitation processes would occur at various locations within the site boundaries. Overburden/topsoil would be stored and seeded with grass as ‘windrows’ along perimeter areas as depicted on the site plan, and the berming effect of this material would serve to provide a visual barrier and buffer from the internal activities. The portable crushing and sorting, activities would occur within the boundaries of the operation area, typically within the pit. The portable wash-plant activities would occur within the pit and would include ponding of water in low depression areas which enables recycling of water for washing purposes. As the wash activities necessitate use of a created depression it is not anticipated there would be any drainage from the washing operation external of the pit.

As indicated in Figure 4 above and on the submitted site plan, the operation area is centrally located within the subject property with the exception of the highest elevation northern boundary of the proposed expansion area which abuts neighboring property. The portions of the subject property not used for the gravel operation are used for agricultural purposes producing alfalfa hay and grazing.

Finding #1 – The subject property is suitable for the proposed expanded use in terms of size and terrain because there is adequate useable space to accommodate the functional needs of the open cut gravel mining operation and there is suitable terrain along the perimeters of the permit area to serve as a

buffer between the ‘extractive industry’ use and adjacent residential and agricultural uses.

ii. Adequate access

The existing gravel mining operation on the subject property is accessed via a paved driveway/haul road approached directly from Coverdell Road. Coverdell Road is a paved public road maintained by Flathead County which was improved by the applicants as a condition of a previously issued conditional use permit for the purpose of safely hauling materials produced from the gravel pit operation. The proposed expansion would utilize the same access, no changes to the access or internal traffic circulation are proposed, and traffic generated as a result of the proposed expansion is not anticipated to vary greatly from that currently generated by the existing use (see Section D.(i) below for additional information regarding traffic generation). Flathead County Road and Bridge Department and the Montana Department of Transportation provided comment indicating no concern with the current proposal, implying the road has been functioning well with the various types of traffic and loads it regularly accommodates.

Finding #2 – The site is suitable for the proposed use because the property has legal and physical access onto public Coverdell Road via private internal paved driveway/haul road which appears well constructed and able to accommodate the heavy loads created as a result of the existing and proposed expanded use.

iii. Absence of environmental constraints

The proposal site is located on a gently sloping area at the western base of a ridge separating the site from adjacent lakes. The subject property is designated as Zone X, outside the 500 year floodplain) on FEMA FIRM Panel 2305G, and there are no shallow ground waters, surface waters or wetlands present on the site. There are no apparent environmental factors which would constrain the proposal, nor are there anticipated impacts to the natural environment which cannot be adequately mitigated through appropriate design.

Finding #3 – The site appears suitable for the proposed use because the location has no apparent environmental factors which would be adversely impacted or which would limit the suitability of the property for the proposed use.

B. Appropriateness of design

i. Parking scheme

Operation of the gravel pit facility is anticipated to be upon demand for product and not continuously, and typical operation does not entail a large number of people onsite at a given time. While Chapters 5 and 6 FCZR contain no specific performance standards or parking and loading specifications applicable to ‘Extractive Industry’, all parking for employee’s vehicles and gravel trucks would occur upon the subject property and within the operational area of the

facility as required by Section 4.10.030 FCZR. The operational area on the subject property appears suitable to accommodate necessary parking.

Finding #4 –While the zoning regulations contain no specific number of parking spaces required for an ‘extractive industry’, the proposal appears appropriate considering the available space for parking of employee’s vehicles and gravel trucks within the operational area of the gravel mining facility.

ii. Traffic circulation

The proposed expanded gravel mining facility site would be accessed via the existing paved driveway/haul road and Coverdell Road, in the same manner as the existing operation. As indicated in the submitted application and development plan, a scale is situated near the gated entrance to the facility and traffic circulation of gravel trucks will enter and exit the facility from that location.

Due to the nature of the gravel extraction activities, internal traffic circulation will vary depending upon the phase of work in a given area of the open cut mine. The early exploitation stage of the proposed expanded operation area will occur at surface and near-surface levels until such a time when increased extraction results in pit development, and it is anticipated operation activities at the early exploitation stages would be more visually and audibly apparent from adjacent properties.

Finding #5 – The internal traffic circulation appears adequate to serve the existing and proposed use because circulation internally within the permitted area is able to adjust for the needs of various permitted activities and the proposed use would continue to use the paved driveway/haul road onto Coverdell Road which has been previously permitted and established for the open cut mining use.

iii. Open space

The subject property exceeds the 5 acre minimum lot size of the SAG-5 Suburban Agricultural zoning district and the proposed expanded operational area of the Klempel Pit would occupy a relatively small area of the property. The operational area of the facility is surrounded by open space in the form of pasture to the west, north, and south and forested hills to the east.

iv. Fencing/screening

According to the application, the entire property owned by the applicants and surrounding the facility are currently fenced with 4-strand barbed wire which will remain in place to protect livestock and maintain the integrity of agricultural as intended. The permitted operational area would be screened by both natural barriers in the form of existing trees and hills and also by the windrows situated along the perimeters of the permitted area which provide mitigation to the visual and sound impacts created by the operation activities.

v. Landscaping

The application indicates landscaping will occur as an element of the re-use phase of the ‘extractive industry’ when the site undergoes reclamation as required by the MTDEQ Montana Open Cut Mining Act permit.

Finding #6 – Open space, fencing, screening and landscaping on the subject property appears adequate as proposed because large areas of the property would remain open rangeland, the site is currently fenced to maintain safety for livestock and to discourage trespass, the expanded operational area would be screened with natural and man-made barriers, and required landscaping elements would be implemented during the re-use/reclamation phase of the project as required under the Montana Open Cut Mining Act.

vi. Signage

The existing gravel mining facility has minimal signage and no specific new signage is proposed beyond any signage required per the Montana Open Cut Mining Act permit. The existing signage appears to comply with the applicable standards for signs in the SAG-5 zones as outlined in Section 5.11.040(1) FCZR.

Finding #7 – Proposed and existing signage for the ‘extractive industry’ would be acceptable because it serves to comply with safety requirements of the Montana Open Cut Mining Act permit and would comply with applicable signage requirements of the SAG-5 Suburban Agricultural zoning district pursuant to Section 5.11.040(1) FCZR.

vii. Lighting

The application indicates lighting would be used for safety purposes associated with operation activities and for emergency circumstances. Exterior lighting shall comply with performance standards set forth in FCZR Section 5.12, being so arranged as to reflect light away from any abutting or residential land-use.

Finding #8 – The proposal for lighting appears reasonable because minimal exterior lighting is proposed for the facility operation during beginning and ending parts of a workday. In order to minimize potential visual impacts from lighting reflecting onto abutting or adjacent residential land uses, all exterior lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.

C. Availability of Public Services and Facilities

i. Sewer

As the gravel mining operation on the subject property is sporadic and not continuous, the application indicates a proposal to use portable toilets which would be maintained by the company providing the service. Comment provided by the Flathead County Environmental Health Department indicates that their department has no authority in regard to the proposed method of sanitation as

portable toilets are for use at construction sites are not subject to special permitting.

ii. Water

The proposal includes a plan to include wash-plant activities in their operation, intended to be a permitted activity of the Klempel Pit's MTDEQ Montana Open Cut Mining Act permit which is anticipated to be amended upon issuance of a new conditional use permit. As the wash-plant activity would necessitate use of a substantial amount of water, the applicants are proposing to use an existing well to serve the purpose of providing the needed water.

Comment provided by the Montana Department of Natural Resources and Conservation indicates the property currently does not have an established water right appropriate for the proposed use of 200gpm of water from the existing well. The comment suggests two options to sufficiently address the matter, and notes until the matter is adequately addressed the gravel pit cannot be allowed to operate with the proposed portable wash plant or any other equipment that requires the use of water over 35 gpm from the well. The applicant should be required to satisfy the requests and obtain all applicable permits from the Montana Department of Natural Resources and Conservation.

Finding #9 – The proposed use would necessitate applicable permitting from the Montana Department of Natural Resources and Conservation (DNRC) for the proposed use of the existing onsite water well at 220gpm before operation of the proposed portable wash plant or any other equipment requiring the use of water over 35 gpm from the well because the only apparent DNRC water right associated with the property is for the purpose of stock use at a rate of 35 gpm and a total annual volume of no more than 10 acre feet.

iii. Storm Water Drainage

The application indicates stormwater drainage is proposed to be managed onsite through simple absorption into the permeable surfaces within the operational permit area. As the operation has created low-lying pits and a retention pond is anticipated for the purpose of the proposed wash-plant activities it is not anticipated that stormwater would leave the site and impact adjacent properties or enter state waters. The Montana Department of Environmental Quality issues a type of stormwater permit specific to discharges associated with sand and gravel operations and the applicant is subject to compliance with applicable stormwater management requirements of the Montana Department of Environmental Quality and the Montana Department of Natural Resources and Conservation.

Finding #10 – It is not anticipated that stormwater drainage would adversely impact adjacent properties or surface waters because stormwater is proposed to be managed and absorbed onsite within the operational permit area, and stormwater permitting specific to discharges associated with sand and gravel operations is required as applicable by the Montana Department of Environmental Quality.

iv. Fire Protection

The subject property is located within the Bigfork Fire District and would be served by the district's station located approximately three miles south in Bigfork. Comment received from the fire chief indicates the District's support and ability to serve the proposed use.

v. Police Protection

The subject property is within the jurisdiction of and currently served by the Flathead County Sheriff's Department. Delayed response times may be anticipated in the event of an emergency due to the property's location in a rural area of the County.

vi. Streets

As previously discussed, the proposed gravel pit expansion would be accessed from a paved driveway/haul road which approaches onto Coverdell Road, a public road constructed and paved approximately 24-feet in width. The Flathead County Road and Bridge Department expressed no concerns regarding the proposal and its potential impacts to the road system resulting from increased traffic to and from the subject property (see Section D.(i) below for more detailed information on traffic generation).

Finding #11 – Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Bigfork Fire District and could be served by the Department's station in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a paved county road that is in good condition and can adequately accommodate the traffic that may be anticipated as a result of the proposed expanded gravel mining 'extractive industry'.

D. Immediate Neighborhood Impact

i. Excessive traffic generation

The proposal site is accessed by Coverdell Road which had approximately 264 average daily vehicle trips and 1,584 weekly vehicle trips according to a study conducted by the Flathead County Road and Bridge Department between July 27, 2009 and August 2, 2009. According to the application, there was an average of 7 gravel truck trips per day from the Klempel Pit operation for the years 2009-2011. As the activity level of the gravel operation fluctuates depending upon demand for its products, it is anticipated the traffic generated as a result of the proposed expansion will not vary greatly from that currently generated by the existing use.

Finding #12 – Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood or adjacent roads because roads providing access are paved, gravel truck traffic generated by the gravel mining operation presently

exists, gravel truck traffic generated by the proposed use is expected to occur at irregular intervals and at rates which are similar to the current use, and traffic related to the proposed use would represent a small increase relative to current total vehicle trips accommodated by Coverdell Road.

ii. Noise or vibration

Noise and vibration is present with typical operations associated with ‘extractive industry’, and such noise and vibration presently occurs from crushing and batching operations performed onsite. Noise and vibration similar to that which currently exists during periods of operation are anticipated to occur with activities which would occur on the proposed 7.7 acre expansion area. Noise and vibration may be reduced and mitigated to a certain degree by the ‘windrow’ berms created by storage of the overburden which would be situated along the perimeters of the proposed expansion area. Blasting operations have been expressly prohibited as a condition of the prior conditional use permits and no blasting is currently proposed.

iii. Dust, glare or heat

The driveway/haul road is paved for approximately 730 feet north of Coverdell Road which helps to minimize dust and dust from the remaining gravel portion of the internal haul road is minimized through watering with a water truck. According to the application the portable crushing and wash-plant operations are equipped with water spray bars and supplied with a 10,000 gallon water truck. The ‘windrow’ barriers serve to minimize glare from the bare exposed gravel deposits. The proposed use does not generate heat.

iv. Smoke, fumes, gas, or odors

While mining activities will generate some odors and increased fumes resulting from equipment and heavy truck traffic, regular combustion of burnable materials is not a permitted activity within the operational area. Any onsite fuel storage should comply with applicable standards intended to prevent spills and contamination of groundwater and the facility is required to comply with applicable air quality and fuel storage standards of the Montana Department of Environmental Quality.

Finding #13 – The proposed use is anticipated to have an impact on the neighboring properties which is acceptable because the proposed expanded gravel mining ‘extractive industry’ will not generate heat, or smoke, and impacts from noise, vibration, dust, glare, fumes, gas and other odors are able to be minimized through various means including watering, physical barriers and screening, and compliance with applicable permitting requirements.

v. Inappropriate hours of operation

The proposal includes a modification to the current hours of operation from 7:00AM - 7:00PM Monday through Friday to 7:00AM - 8:00PM Monday through Friday and 8:00AM -5:00PM on Saturdays. The proposed hours would

serve to limit impacts associated with noise, vibration, and traffic to times of the day with good light visibility for traffic safety and to hours when adjacent and area residents are typically awake and engaged in day-to-day activities.

Finding #14 – The proposed hours of operation would be acceptable and have minimal impact on the surrounding neighborhood because noise and activity levels associated with normal operation of the gravel mining ‘extractive industry’ would primarily occur during daytime and early evening hours, thereby introducing minimal disturbance to adjacent residents.

E. ‘Extractive Industry’ Conditional Use Standard

Section 4.10 FCZR contains specific standards applicable to ‘Extractive Industry’, stating “ *Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, 82-4-401, et seq., M.C.A., as administered by the Montana Department of Environmental Quality, but shall be in addition to the requirements of said Act.*”

Section 4.1.020 FCZR addresses operational requirements, the majority of which have been addressed elsewhere in this report. The following considerations are based on this section:

- Blasting activities have not been proposed, and should be prohibited.
- Pockets and stagnant pools of water resulting from surface drainage shall either sprayed to eliminate breeding places for mosquitoes and other insects. using methods and chemicals approved by the Montana State Department of Agriculture; or pockets and stagnant pools of water should be drained to prevent the creation of such breeding places.

Section 4.1.030 FCZR appears adequately addressed as parking for all employees vehicles and gravel trucks is proposed to be provided off-street and on-site.

Section 4.1.040 FCZR involves a plan for site development to be submitted with the application which addresses standards for the ‘exploitation’ and ‘re-use’ phases. This section appears adequately addresses as it includes mapping of the site as it relates to surrounding property, generally demonstrates the operation would not create hazards or cause damage to other properties, and generally indicates how the site will be able to be re-used after re-grading the site to 3:1 or less slopes and introducing landscaping.

Finding #15 – The proposed use substantially complies with the ‘Extractive Industry’ conditional use standards of Section 4.10 FCZR because submitted application materials and the evaluation and findings throughout the staff report indicate the specific standards are met.

V. SUMMARY OF FINDINGS

1. The subject property is suitable for the proposed expanded use in terms of size and terrain because there is adequate useable space to accommodate the functional needs of the open cut gravel mining operation and there is suitable terrain along the perimeters of the permit area to serve as a buffer between the 'extractive industry' use and adjacent residential and agricultural uses.
2. The site is suitable for the proposed use because the property has legal and physical access onto public Coverdell Road via private internal paved driveway/haul road which appears well constructed and able to accommodate the heavy loads of created as a result of the existing and proposed expanded use.
3. The site appears suitable for the proposed use because the location has no apparent environmental factors which would be adversely impacted or which would limit the suitability of the property for the proposed use.
4. While the zoning regulations contain no specific number of parking spaces required for an 'extractive industry', the proposal appears appropriate considering the available space for parking of employee's vehicles and gravel trucks within the operational area of the gravel mining facility.
5. The internal traffic circulation appears adequate to serve the existing and proposed use because circulation internally within the permitted area is able to adjust for the needs of various permitted activities and the proposed use would continue to use the paved driveway/haul road onto Coverdell Road which has been previously permitted and established for the open cut mining use.
6. Open space, fencing, screening and landscaping on the subject property appears adequate as proposed because large areas of the property would remain open rangeland, the site is currently fenced to maintain safety for livestock and to discourage trespass, the expanded operational area would be screened with natural and man-made barriers, and required landscaping elements would be implemented during the re-use/reclamation phase of the project as required under the Montana Open Cut Mining Act.
7. Proposed and existing signage for the 'extractive industry' would be acceptable because it serves to comply with safety requirements of the Montana Open Cut Mining Act permit and would comply with applicable signage requirements of the SAG-5 Suburban Agricultural zoning district pursuant to Section 5.11.040(1) FCZR.
8. The proposal for lighting appears reasonable because minimal exterior lighting is proposed for the facility operation during beginning and ending parts of a workday. In order to minimize potential visual impacts from lighting reflecting onto abutting or adjacent residential land uses, all exterior lighting would be required to comply with applicable requirements set forth in the Flathead County Zoning Regulations.
9. The proposed use would necessitate applicable permitting from the Montana Department of Natural Resources and Conservation (DNRC) for the proposed use of the existing onsite water well at 220gpm before operation of the proposed portable wash plant or any other equipment requiring the use of water over 35 gpm from the well because the only apparent DNRC water right associated with the property is for

the purpose of stock use at a rate of 35 gpm and a total annual volume of no more than 10 acre feet.

10. It is not anticipated that stormwater drainage would adversely impact adjacent properties or surface waters because stormwater is proposed to be managed and absorbed onsite within the operational permit area, and stormwater permitting specific to discharges associated with sand and gravel operations is required as applicable by the Montana Department of Environmental Quality.
11. Adequate public services are available to serve the proposed use as the subject property is located within the jurisdiction of the Bigfork Fire District and could be served by the Department's station in the event of an emergency; and because the property is currently served by the Flathead County Sheriff's Department and has direct access onto a paved county road that is in good condition and can adequately accommodate the traffic that may be anticipated as a result of the proposed expanded gravel mining 'extractive industry'.
12. Additional vehicle traffic associated with the proposed use is not anticipated to generate excessive traffic which would adversely impact the immediate neighborhood or adjacent roads because roads providing access are paved, gravel truck traffic generated by the gravel mining operation presently exists, gravel truck traffic generated by the proposed use is expected to occur at irregular intervals and at rates which are similar to the current use, and traffic related to the proposed use would represent a small increase relative to current total vehicle trips accommodated by Coverdell Road.
13. The proposed use is anticipated to have an impact on the neighboring properties which is acceptable because the proposed expanded gravel mining 'extractive industry' will not generate heat, or smoke, and impacts from noise, vibration, dust, glare, fumes, gas and other odors are able to be minimized through various means including watering, physical barriers and screening, and compliance with applicable permitting requirements.
14. The proposed hours of operation would be acceptable and have minimal impact on the surrounding neighborhood because noise and activity levels associated with normal operation of the gravel mining 'extractive industry' would primarily occur during daytime and early evening hours, thereby introducing minimal disturbance to adjacent residents.
15. The proposed use substantially complies with the 'Extractive Industry' conditional use standards of Section 4.10 FCZR because submitted application materials and the evaluation and findings throughout the staff report indicate the specific standards are met.

VI. CONCLUSION

‘Extractive Industry’ requires issuance of a Conditional Use Permit in the SAG-5 zoning district, and the existing gravel pit operation was established subsequent to issuance of previous conditional use permits FCU-03-28 and FCU-05-15. This review of the proposed expansion to the operation has been performed in compliance with Section 2.06.010 FCZR which states “No structure, building or land shall be used, constructed, altered, or expanded where a Conditional Use Permit is specifically required by the terms of these regulations until a Conditional Use Permit for such use has been authorized by the Board of Adjustment and issued by the Zoning Administrator.”

Upon review of this application, the requested proposal is generally supported by the review criteria and the 15 Findings of Fact listed above. Should the Flathead County Board of Adjustment vote to adopt staff report FCU-12-07 as Findings of Fact and approve the conditional use permit, the following conditions would ensure compliance with the review criteria and ensure appropriate measures to mitigate impacts have been met. Should the current proposal be approved, the conditions of approval would be applicable to the whole expanded operation of the ‘Klempel Pit’. Therefore, Conditions of Approval from FCU-05-15 which remain defensible and pertinent to the continued operation of the entire Klempel Pit are carried forward in the following list of conditions, as well as those pertinent to the expansion reviewed herein.

VII. CONDITIONS

1. The operation of the expanded gravel mining ‘extractive industry’ on the subject property shall be in substantial conformance with the application, site plan, and development plan submitted and approved by the Board of Adjustment. Expressly contemplated and permitted is the inclusion of the 7.7 acre area indicated on the submitted site plan to the previously permitted 44 acre area of operation and activities including portable wash plant, screening facilities, and a ‘grizzly’ sorter in addition to the currently permitted crushing and asphalt batching operations.
2. Changes or modifications to the approved use(s) or the site plan shall not be affected unless specifically approved in writing by the Flathead County Board of Adjustment.
3. The approved use shall conform to the applicable standards of the SAG-5 Suburban Agricultural zoning district and the ‘Extractive Industry’ conditional use standards as applicable [FCZR Sections 3.08 and 4.10].
4. All parking areas for employee vehicles and gravel trucks shall be provided onsite. [FCZR Section 4.10.030]
5. All signage on the subject property shall comply with applicable standards and guidelines set forth under Section 5.11 of the Flathead County Zoning Regulations.
6. Safety informational signage shall be posted at the site in accordance with requirements of the Montana Open Cut Mining Act.
7. Fencing shall be maintained around the mining perimeter to prevent people from inadvertently entering the site.

8. Soils stockpiled onsite shall be bermed 'windrows' as described in the application and depicted on the submitted site plan. 'Windrow' berms shall be maintained to reduce noise and visual impact of the extraction operation on surrounding ownerships.
9. Dust abatement shall be performed consistently and conscientiously to limit any impacts to the surrounding properties and general air quality.
10. All lighting on the subject property shall adhere to the performance standards set forth in Section 5.12 of the Flathead County Zoning Regulations, with exterior lighting specifically being side-shielded in a manner that the light source (bulb) is not directly visible as viewed from a horizontal plane at or above the bulb's elevation above the ground.
11. The landowner and operator of the mining operation shall adhere to all applicable requirements as required by the Montana Department of Environmental Quality and the Montana Open Cut Mining Act permit for the Klempel Pit. Documentation confirming the completion of this requirement shall be available upon request.
12. The applicants shall comply with applicable regulations of the Montana Department of Natural Resources and Conservation regarding appropriation of groundwater, and until such time the gravel pit cannot operate with the proposed portable wash plant or any other equipment that requires the use of water over 35 gpm from the well. A copy of the water right abstract authorizing the diversion of water at 200 gpm from the 180' onsite well shall be available upon request.
13. The applicant shall obtain the stormwater drainage permit specific to discharges associated with sand and gravel operations from the Montana Department of Environmental Quality. Documentation confirming the completion of this requirement shall be available upon request.
14. Onsite fuel storage shall be in conformance with applicable DEQ regulations, including storage containment and monitoring requirements.
15. Pockets and stagnant pools of water resulting from surface drainage shall be treated with EPA-approved larvicides to eliminate breeding places for mosquitoes and other insects. Methods and chemicals shall be approved by the Montana Department of Agriculture; or the ponds shall be periodically drained to prevent the creation of such breeding places.
16. The site shall be reclaimed in accordance with the applicable provisions of the Montana Open Cut Mining Act permit for the Klempel Pit.
17. Hours of operation shall be 7:00 AM to 8:00 PM Monday through Friday and 8:00 AM to 5:00 PM on Saturdays.
18. The operation of the expanded 'extractive industry' shall commence within one year from the date of issuance of the conditional use permit. The permit may be extended for one additional year if the permittee requests additional time prior to expiration date.

Planner: AH